

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

Texas League of United Latin	§	
American Citizens, et al.	§	Civil Action No.: 5:19-CV-00074-FB
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
David Whitley et al.	§	
<i>Defendants</i>	§	

**JOINT ADVISORY TO THE COURT FROM COUNTY DEFENDANTS**

Before the Court are three consolidated cases: *Texas League of United Latin American Citizens et al. v. Whitley et al.*, 5:19-CV-00074-FB (the *LULAC* case); *MOVE Texas Civic Fund et al. v. Whitley et al.*, 5:19-CV-00171-FB (the *MOVE* case); and *Garibay et al. v. Whitley et al.*, 5:19-cv-159-FB (the *Garibay* case).

The *MOVE* and *Garibay* cases were consolidated with the original *LULAC* case and name certain Texas counties as defendants. Specifically, the *MOVE* Plaintiffs named Galveston County, Blanco County, Smith County, Fayette County, Harrison County, Hansford County, Caldwell County and Washington County. The *Garibay* Plaintiffs named Austin County, Galveston County, Smith County, and Wood County.<sup>1</sup> Collectively, these named County Defendants file this advisory to the Court regarding the Court’s Order Denying Plaintiff’s Motion to Dismiss filed on February 27, 2019. Doc. No. 61.

The Court’s order stated that the Court “awaits final advice from the individual counties which are parties concerning whether they will agree to pause the process, particularly not sending any notice of examination letters without prior approval of the Court.” *Id.* at 4. The named County

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<sup>1</sup> Pending before the Court is the *Garibay* Plaintiffs’ Request to file a Second Amended Complaint, seeks to add as Defendants Angelina County, Bandera County, Blanco County, Bosque County, Brazos County, Gregg County, Kerr County, Victoria County, and Willacy County. However, these counties are not properly before the Court at this time.

Defendants file this joint advisory to inform the Court they intend to follow the Court's order and will not send out any notice of examination letters, will not initiate communication directly with any particular individual on the list, and will not remove any registered voters from the county voter registration list without further order of the Court.

However, the County Defendants request clarification from the Court regarding whether the order is limited to those voters identified in the Secretary of State's Advisory No. 2019-02. For example, all Texas counties routinely receive information from a variety of sources (including the Secretary of State) regarding voters who are deceased, have moved to another county or state, are convicted of a felony, or are not citizens. While the County Defendants understand the Court's order to not remove any voter based on information received from Advisory 2019-02, it is unclear if the order is broad enough to prohibit the removal of "any person from the current voter registration list until authorized by this Court," for any reason, based upon information independent of Advisory 2019-02. *Id.* The County Defendants also advise the Court that they may be unable to avoid communicating directly "with any particular individual on the list" should those voters initiate the contact with a county elections administrator. However, the County Defendants advise the Court that they will not initiate such contact.

Respectfully Submitted,

/s/ J. Eric Magee

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*\* - Motions for Admission Pro Hac Vice pending.*

### **CERTIFICATE OF SERVICE**

I certify that on the 27th day of February, 2019, I electronically filed the foregoing document with the clerk for the U.S. District Court, Western District of Texas, using the electronic case filing system of the court.

/s/ J. Eric Magee

J. Eric Magee